

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CA #: 04-12013NMG

BRANDON ASSOCIATES, LLC,  
Plaintiff,

v.

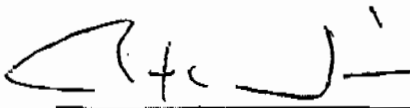
FAILSAFE AIR SAFETY SYSTEMS, CORP.,  
BLUE SAGE CONSULTING, INC.,  
ELCON MEDICAL, DEBRA ESPE, and  
ALAN FEURSTEIN,  
Defendants.AFFIDAVIT

I Robert N. Wilson, Jr., under oath do depose and say:

- 1) I am an attorney in good standing, licensed to practice law in the Commonwealth, and with a principal place of business located at 46 Washington Street, PO Box 633, Ayer, Massachusetts 01432-0633;
- 2) I am the attorney for the Defendant in the above-referenced matter, Blue Sage Consulting, Inc.;
- 3) My present hourly rate is \$250.00 per hour for litigation related matters;
- 4) As a consequence of the filing of multiple complaints and motions, and the need to review voluminous exhibits in order to prepare a defense, the Defendant, Blue Sage Consulting, Inc. has been forced to incur in excess of \$5,500.00 in legal fees, exclusive of the time lost by the client in order to assist in the preparation of the defense;
- 5) Attendance at this scheduling conference further impacts the cost to the Defendant, Blue Sage Consulting, Inc.;

- 6) The attorney fees, following the scheduling conference are anticipated to be approximately \$6,250.00.
- 7) The Plaintiff, Brandon Associates, LLC, in their most recent filing, the Motion to Amend the Complaint and the Second Amended Complaint, has indicated that Blue Sage Consulting, Inc., as well as the other individual defendants, should be dismissed from the action, after causing the Defendants, including Blue Sage Consulting, Inc., to expend considerable resources, time and money to prepare for the defense of this matter;
- 8) In addition, the burden on the Defendant, Blue Sage Consulting, Inc., has been greater than that of other Defendants given that Blue Sage was obviously added to the litigation in order to destroy diversity of citizenship, a fact that was not only obvious, but that was pleaded by the Plaintiff in the First Amended Complaint (Para. 3, First Amended Complaint);
- 9) The Defendant, Blue Sage Consulting, Inc. is further damaged because the Plaintiff now seeks to further amend the complaint, ostensibly to correct their errors in pleading, which if allowed, will allow the Plaintiff to avoid sanction for involving the Defendant in this frivolous litigation;
- 10) The Defendant, Blue Sage Consulting, Inc. seeks attorney fees and costs for the defense of this action.

Signed this 8<sup>th</sup> day of December, 2004.

  
Robert N. Wilson, Jr.

## COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

December 8, 2004

On this 8<sup>th</sup> Day of December, 2004, before me, the undersigned Notary Public, personally appeared the above-named Robert N. Wilson, Jr., proved to me through satisfactory evidence of identification, which was his drivers license, to be the person whose name is signed on the preceding or attached documents in my presence and acknowledged the foregoing instrument to be his free act and deed, before me.

Lindsay O. Latuga  
Lindsay O. Latuga  
Notary Public  
My Commission Expires:



LINDSAY O. LATUGA  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
October 20, 2011

